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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,346	11/28/2001	Michael D. Ellis	UV-226	1971

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EXAMINER
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SALCE, JASON P

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

09/996,346

**Applicant(s)**

ELLIS, MICHAEL D.

**Examiner**

Jason P. Salce

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33, 109-141, 217-249 and 325-357 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33, 109-141, 217-249 and 325-357 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-33, 109-141, 217-249 and 325-357 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6-21, 23-25, 109-111, 114-129, 131-133, 217-219, 222-237, 239-241, 325-327, 330-345 and 347-349 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler et al. (U.S. Patent No. 5,907,323) in view of Roop et al. (U.S. Patent No. 5,619,274).

Referring to claim 1, Lawler discloses a method for supporting programming in an interactive television program guide (see Figure 3B).

Lawler also discloses receiving blackout information regarding at least one program with the interactive television program guide (see Figure 3B for the EPG containing the program's unique ID (title of the program), time and channel information (see Applicant's specification in Paragraph 0011, Lines 5-8 for the blackout information being a program's unique ID, time and channel information)). Therefore, Applicant's specification teaches that the EPG data of Lawler is blackout information.

Lawler also discloses receiving a user indication of a program with the interactive television program guide (see Column 5, Lines 38-40).

Lawler also discloses displaying the blackout information regarding the at least one program with the interactive television program guide in response to receiving the user indication (see Column 5, Lines 31-55 and Figure 3B for various types of blackout information being displayed upon user selection of a program cell).

Although Lawler discloses transmitting and receiving various types of blackout information, Lawler fails to disclose blacking out a program, therefore failing to teach receiving blackout information **regarding at least one blacked-out program**.

Roop discloses a system for distributing program guide information over a television network to a plurality of client using the Starsight system (see Column 9, Lines 21-31 of Roop). Roop further teaches that in addition to the standard program guide information being transmitted (see Column 91, Lines 46-62), blackout information regarding a blacked-out program is also transmitted and used to display the blackout information (see Column 93, Lines 5-18 and Lines 45-48).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the transmitted EPG data and television program data, as taught by Lawler, to include the program guide information **regarding at least one blacked-out program**, as taught by Roop, in order to display the correct schedule for the blocked-out time slot and providing network exclusivity (see Column 93, Lines 5-14 of Roop).

Claim 2 corresponds to claim 1, where Lawler further discloses that a user indication of a program includes a program listings display with the interactive television program guide (see again Figure 3B).

Claim 3 corresponds to claim 1, where Lawler further discloses receiving a user indication of a program from a FLIP display with the interactive television program guide (see again Figure 3B).

Claim 6 corresponds to claim 1, where Lawler further discloses that the user indication includes replacement media with the interactive television program guide (see Figure 3B for displaying multiple programs, which can be selected if the user selects a program that shown to be blacked out in the summary panel, therefore providing multiple options for replacement media).

Claim 7 corresponds to claim 1, where Lawler further teaches that if a program cell is selected that the currently tuned program is displayed in the summary panel (see Column 6, Lines 48-53), therefore if a selected program is determined to be blacked out (as taught by Roop), then the summary panel would not display the currently tuned channel and clearly this teaches an indication of a blacked out program being provided in the EPG of Figure 3B of Lawler. Further note Column 93, Lines 13-14 of Roop.

Claim 8 corresponds to claim 1, where Lawler further discloses that displaying blackout information comprises displaying the blackout information regarding the at least one blacked-out program in an information display with the interactive television program guide in response to receiving the user indication (see Figure 3B for displaying the unique program identification in the form of program titles, which are displayed when

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a program is selected, therefore, if the user selects a blacked out program, the title of the program will appear in the program grid (or the description in the summary panel)).

Referring to claim 9, see the rejection of claim 8.

Referring to claim 10, see the rejection of claim 8 and further note that the network name and channel are displayed for the selected program, therefore the type of blacked out program is interpreted as the network or channel type of the selected blacked out program.

Referring to claim 11, see the rejection of claim 8.

Referring to claim 12, see the rejection of claim 6.

Claims 13-14 correspond to claim 12, where Lawler discloses that different types of media can be selected from the EPG, such as pay-per-view and video-on-demand programs, thereby teaching that the replacement media (displayed in the EPG program grid while a blacked out program is selected) can be pay-per-view and video-on-demand programs. Therefore, Lawler clearly teaches displaying information regarding replacement media comprises displaying information regarding the at least one pay-per-view (or video-on-demand) program with the interactive television program guide in response to receiving the user indication.

Claim 15 corresponds to claim 12, where Lawler teaches that the replacement media can be a television program and displaying information regarding replacement media comprising displaying information regarding the television program with the interactive television program guide in response to receiving the user indication (see

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again Figure 3B for displaying multiple television programs along with a selected program).

Referring to claim 16, see the rejection of claim 15 and further note that promotional video can also be presented (see Column 9, Lines 46-48).

Referring to claims 17-18, see the rejection of claims 13-14, respectively.

Referring to claim 19, see the rejection of claim 12.

Referring to claim 20, see the rejection of claim 12 and further note that the replacement media (other program listings in the program grid) represent programs that the user is able to select and are therefore, user-targeted.

Referring to claim 21, see the rejection of claim 12 and further note that other programs are related to a selected program by being broadcast on the same network/channel and therefore share characteristics.

Claim 23 corresponds to claim 12, where Lawler discloses displaying at least one description of replacement media for the at least one blacked-out program with the interactive television program guide in response to receiving the user indication (see Column 5, Lines 50-55).

Referring to claims 24-25, Lawler discloses providing a user-selectable option to directly tune to replacement media by providing in the EPG additional program listings that can be accessed (directly tuned to) by the user (see Figure 3B and Column 6, Lines 48-50).

Referring to claims 109-111, 114-129 and 131-133, see the rejection of claims 1-3, 6-21 and 23-25, respectively.

Referring to claims 217-219, 222-237 and 239-241, see the rejection of claims 1-3, 6-21 and 23-25, respectively.

Referring to claims 325-327, 330-345 and 347-349, see the rejection of claims 1-3, 6-21 and 23-25, respectively.

3. Claims 4, 112, 220 and 328 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler et al. (U.S. Patent No. 5,907,323) in view of Roop et al. (U.S. Patent No. 5,619,274) in further view of Look et al. (U.S. Patent No. 6,757,906).

Referring to claim 4, Lawler and Roop disclose all of the limitations of claim 1, but fail to teach that the user indication of a program is from a record list display with the interactive program guide.

Look discloses a program list display that displays the list of programs that have been recorded (see Figure 17 and Column 15, Lines 28-48).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program guide, as taught by the combination of Lawler and Roop, using the recorded program guide list, as taught by Look, for the purpose of providing an intuitive, visually communicative user interface (see Column 1, Lines 59-60 of Look).

Referring to claims 112, 220 and 328, see the rejection of claim 4.

4. Claims 5, 22, 26-33, 113, 130, 134-141, 221, 238, 242-249, 329, 346 and 350-357 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler et al. (U.S.



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Patent No. 5,907,323) in view of Roop et al. (U.S. Patent No. 5,619,274) in further view of Lawler et al. (U.S. Patent No. 6,699,107).

Referring to claim 5, Lawler ('323 patent) and Roop disclose all of the limitations of claim 1, but fail to teach a reminder list display with the interactive television program guide.

Lawler ('107 patent) discloses a reminder list display in an EPG (see Column 13, Lines 13-15).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the EPG, as taught by the combination of Lawler ('323 patent) and Roop, using the reminder list display, as taught by Lawler ('107 patent), for the purpose of allowing a user to readily determine which programs have reminders set and which do not (see Column 13, Lines 15-16 of Lawler ('107 patent)).

Referring to claim 22, Lawler ('323 patent) and Roop disclose all of the limitations in claim 19, as well as a replacement media list (see Figure 3B of the Lawler '323 patent), but fails to teach that the list can indicate at least one different showing of the at least one blacked-out program.

Lawler ('107 patent) discloses in Figure 10 that an Every Week option can be selected, which allows the user to have the option to record the selected program every week it is shown, therefore providing at least one different showing of the at least one blacked-out program.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the EPG, as taught by the combination of Lawler ('323

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patent) and Roop, using the record option display, as taught by Lawler ('107 patent), for the purpose of allowing a user to quickly and easily find and select desired further programs (see Column 2, Lines 5-10 of Lawler ('107 patent)).

Referring to claims 26-27, see the rejection of claim 22 for Lawler ('107 patent) disclosing the recording functionality.

Referring to claims 28-29, see the rejection of claims 26-27, respectively and further note that the user can also provide a reminder in the same manner a record option is provided (see Figure 8).

Referring to claims 30-31, see Figure 11 of Lawler ('107) patent for additional providing an option to order a pay-per-view program (also note Figure 6).

Referring to claims 32-33, see the rejection of claims 30-31 and further note Column 4, Lines 50-52 for additionally providing video on-demand content.

Referring to claims 113, 130 and 134-141, see the rejection of claim 6, 22 and 26-33, respectively.

Referring to claims 221, 238 and 242-249, see the rejection of claim 6, 22 and 26-33, respectively.

Referring to claims 329, 346 and 350-357, see the rejection of claim 6, 22 and 26-33, respectively.

### ***Conclusion***

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

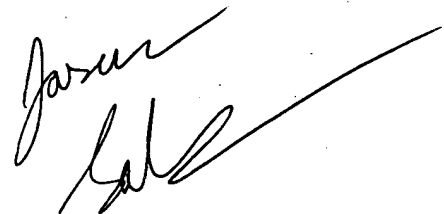
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce  
Primary Examiner  
Art Unit 2623

January 16, 2007

JASON SALCE  
PRIMARY PATENT EXAMINER

A handwritten signature in black ink, appearing to read 'Jason Salce', with a long horizontal flourish extending to the right.